



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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April 16, 2007

To: Interested Persons

From: Lane Shetterly, Director



Re: Ballot Measure 37 (ORS 197.352) Claim Number M130383

Claimants: N. Tom and Marlene Hirons

Enclosed, in regard to the above-referenced claim for compensation under Ballot Measure 37 (ORS 197.352), is the Final Staff Report and Recommendation of the Department of Land Conservation and Development, and the Final Order.

This Final Staff Report and Recommendation and the Final Order constitute the final decision on this claim. No further action will be taken on this matter.

BEFORE THE DEPARTMENT OF ADMINISTRATIVE SERVICES,
THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT OF
THE STATE OF OREGON

IN THE MATTER OF THE CLAIM FOR)	FINAL ORDER A
COMPENSATION UNDER ORS 197.352)	CLAIM NO. M130383
(BALLOT MEASURE 37) OF)	
Marlene Hirons, CLAIMANT)	

Claimant: Marlene Hirons (the Claimant)

Property: Township 9S, Range 4E, Section 31, Tax lot 300, Linn County (the Property)

Claim: The demand for compensation and any supporting information received from the Claimant by the State of Oregon (the Claim).

Claimant submitted the Claim to the State of Oregon under ORS 197.352. Under OAR 125-145-0010 *et seq.*, the Department of Administrative Services (DAS) referred the Claim to the Department of Land Conservation and Development (DLCD) as the regulating entity. This order is based on the record herein, including the Findings and Conclusions set forth in the Final Staff Report and Recommendation of DLCD (the DLCD Report) attached to and by this reference incorporated into this order.

ORDER

The Claim is approved as to laws administered by DLCD and the Land Conservation and Development Commission (LCDC) for the reasons set forth in the DLCD Report, and subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Marlene Hirons' development of a dwelling on the 27-acre subject property: applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, enacted or adopted after April 17, 1995. These land use regulations will not apply to Marlene Hirons only to the extent necessary to allow her to use the subject property for the use described in this report, and only to the extent that use was permitted when she acquired the property on April 17, 1995. The department acknowledges that the relief to which Marlene Hirons is entitled under ORS 197.352 will not allow her to use the subject property in the manner set forth in the claim.
2. The action by the State of Oregon provides the state's authorization to Marlene Hirons to use the subject property for the use described in this report, subject to the standards in effect on April 17, 1995. At that time, the property was subject to applicable provisions of Linn County's EFU zoning and applicable provisions of Goal 3, ORS 215, and OAR 660, division 33, currently in effect.
3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license

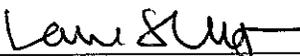
or other form of authorization or consent, the order will not authorize the use of the property unless Marlene Hirons first obtains that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a "permit" as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies and restrictions on the use of the subject property imposed by private parties.

4. Any use of the subject property by Marlene Hirons under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

5. Without limiting the generality of the foregoing terms and conditions, in order for Marlene Hirons to use the subject property, it may be necessary for her to obtain a decision under ORS 197.352 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves Marlene Hirons from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the subject property by her.

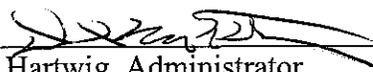
This Order is entered by the Director of the DLCD as a final order of DLCD and the Land Conservation and Development Commission under ORS 197.352, OAR 660-002-0010(8), and OAR 125, division 145, and by the Administrator for the State Services Division of the DAS as a final order of DAS under ORS 197.352, OAR 125, division 145, and ORS 293.

FOR DLCD AND THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION:



Lane Shetterly, Director
DLCD
Dated this 16th day of April, 2007.

FOR the DEPARTMENT OF
ADMINISTRATIVE SERVICES:



David Hartwig, Administrator
DAS, State Services Division
Dated this 16th day of April, 2007.

NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF

You are entitled, or may be entitled, to judicial remedies including the following:

1. Judicial review under ORS 183.484: Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 may be filed in the Circuit Court for Marion County or the Circuit Court in the county in which you reside.
2. A cause of action under ORS 197.352 (Measure 37 (2004)): If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under ORS 197.352, the present owner of the property, or any interest therein, shall have a cause of action in the circuit court in which the real property is located.

(Copies of the documents that comprise the record are available for review at the Department's office at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540)

FOR INFORMATION ONLY

The Oregon Department of Justice has advised the Department of Land Conservation and Development that "[i]f the current owner of the real property conveys the property before the new use allowed by the public entity is established, then the entitlement to relief will be lost."

BEFORE THE DEPARTMENT OF ADMINISTRATIVE SERVICES,
THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT OF
THE STATE OF OREGON

IN THE MATTER OF THE CLAIM FOR) FINAL ORDER B
COMPENSATION UNDER ORS 197.352) CLAIM NO. M130383
(BALLOT MEASURE 37) OF)
N. Tom Hirons, CLAIMANT)

Claimant: N. Tom Hirons (the Claimant)

Property: Township 9S, Range 4E, Section 31, Tax lot 300, Linn County
(the Property)

Claim: The demand for compensation and any supporting information received
from the Claimant by the State of Oregon (the Claim).

Claimant submitted the Claim to the State of Oregon under ORS 197.352. Under OAR 125-145-0010 *et seq.*, the Department of Administrative Services (DAS) referred the Claim to the Department of Land Conservation and Development (DLCD) as the regulating entity. This order is based on the record herein, including the Findings and Conclusions set forth in the Final Staff Report and Recommendation of DLCD (the DLCD Report) attached to and by this reference incorporated into this order.

ORDER

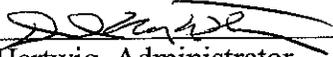
The Claim is denied as to laws administered by DLCD and the Land Conservation and Development Commission (LCDC) for the reasons set forth in the DLCD Report.

This Order is entered by the Director of the DLCD as a final order of DLCD and the Land Conservation and Development Commission under ORS 197.352, OAR 660-002-0010(8), and OAR chapter 125, division 145, and by the Administrator for the State Services Division of the DAS as a final order of DAS under ORS 197.352, OAR chapter 125, division 145, and ORS chapter 293.

FOR DLCD AND THE LAND
CONSERVATION AND
DEVELOPMENT COMMISSION:


Lane Shetterly, Director
DLCD
Dated this 16th day of April, 2007.

FOR THE DEPARTMENT OF
ADMINISTRATIVE SERVICES:


David Hartwig, Administrator
DAS, State Services Division
Dated this 16th day of April, 2007.

NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF

You are entitled, or may be entitled, to the following judicial remedies:

1. Judicial review under ORS 183.484: Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 may be filed in the Circuit Court for Marion County or the Circuit Court in the county in which you reside.
2. A cause of action under ORS 197.352 (Measure 37 (2004)): If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under ORS 197.352, the present owner of the property, or any interest therein, shall have a cause of action in the circuit court in which the real property is located.

(Copies of the documents that comprise the record are available for review at the Department's office at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540)

ORS 197.352 (BALLOT MEASURE 37) CLAIM FOR COMPENSATION
OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
Final Staff Report and Recommendation

April 16, 2007

STATE CLAIM NUMBER: M130383

NAMES OF CLAIMANTS: N. Tom and Marlene Hirons

MAILING ADDRESS: 51755 Gates Bridge E
Gates, Oregon 97346

PROPERTY IDENTIFICATION: Township 9S, Range 4E, Section 31
Tax lot 300
Linn County

DATE RECEIVED BY DAS: October 23, 2006

180-DAY DEADLINE: April 21, 2007

I. SUMMARY OF CLAIM

The claimants, N. Tom and Marlene Hirons, seek compensation in the amount of \$600,000 for the reduction in fair market value as a result of land use regulations that are alleged to restrict the use of certain private real property. The claimants desire compensation or the right to develop a dwelling on the 27-acre subject property. The subject property is located at the geographic coordinates listed above, near Gates, in Linn County. (See claim.)

II. SUMMARY OF STAFF RECOMMENDATION

Based on the findings and conclusions set forth below, the Department of Land Conservation and Development (the department) has determined that the claim is valid in part. Department staff recommends that, in lieu of compensation, the requirements of the following state laws enforced by the Land Conservation and Development Commission (the Commission) or the department not apply to Marlene Hirons' development of a dwelling on the 27-acre subject property: applicable provisions of Statewide Planning Goal 3 (Agricultural Lands), ORS 215 and Oregon Administrative Rules (OAR) 660, division 33, enacted or adopted after April 17, 1995. These laws will not apply to Marlene Hirons only to the extent necessary to allow her to use the subject property for the use described in this report, and only to the extent that use was permitted when she acquired the property on April 17, 1995. The department acknowledges that the relief to which Marlene Hirons is entitled under ORS 197.352 will not allow her to use the subject property in the manner set forth in the claim.

The department has further determined that this claim is not valid as to N. Tom Hirons because he is no longer an owner of the subject property. (See the complete recommendation in Section VI. of this report.)

III. COMMENTS ON THE CLAIM

Comments Received

On March 6, 2007, pursuant to OAR 125-145-0080, the Oregon Department of Administrative Services (DAS) provided written notice to the owners of surrounding properties. According to DAS, no written comments were received in response to the 10-day notice.

IV. TIMELINESS OF CLAIM

Requirement

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from land use regulations enacted prior to the effective date of Measure 37 (December 2, 2004), within two years of that effective date, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner, whichever is later; or
2. For claims arising from land use regulations enacted after the effective date of Measure 37 (December 2, 2004), within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

Findings of Fact

This claim was submitted to DAS on October 23, 2006, for processing under OAR 125, division 145. The claim identifies several provisions of ORS 215 as the basis for the claim. Only laws that were enacted or adopted prior to December 2, 2004, are the basis for this claim.

Conclusions

The claim has been submitted within two years of the effective date of Measure 37 (December 2, 2004), based on land use regulations enacted or adopted prior to December 2, 2004, and is therefore timely filed.

V. ANALYSIS OF CLAIM

1. Ownership

ORS 197.352 provides for payment of compensation or relief from specific laws for "owners" as that term is defined in ORS 197.352. ORS 197.352(11)(C) defines "owner" as "the present owner of the property, or any interest therein."

Findings of Fact

The claimants, N. Tom and Marlene Hirons, acquired the subject property on April 17, 1995, as reflected by a bargain and sale deed included with the claim. Rocky Top Ranch, a partnership owned by the claimants, acquired the subject property on December 28, 1976, as evidenced by an assignment of contract included with the claim.¹ According to available information, N. Tom Hirons died on November 1, 2006, shortly after the claim was filed with the state.² His ownership interest in the subject property terminated upon the date of his death. The Linn County Assessor's Office confirms claimant Marlene Hirons' current ownership of the subject property.

Conclusions

Claimant Marlene Hirons is an "owner" of the subject property as that term is defined by ORS 197.352(11)(C), as of April 17, 1995. Rocky Top Ranch is a "family member" of Marlene Hirons as defined by ORS 197.352(11)(A) and acquired the subject property on December 28, 1976. Claimant N. Tom Hirons is no longer an owner of the subject property.

2. The Laws That are the Basis for This Claim

In order to establish a valid claim, ORS 197.352(1) requires, in part, that a law must restrict the claimants' use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants or a family member acquired the property.

Findings of Fact

The claim indicates that the claimants desire to develop a dwelling on the 27-acre subject property, and that current state land use regulations prevent the desired use.

The claim is based generally on the applicable provisions of state law that require Exclusive Farm Use (EFU) zoning and restrict uses on EFU-zoned land. The claimants' property is zoned EFU by Linn County as required by Goal 3, in accordance with ORS 215 and OAR 660, division 33, because the claimants' property is "agricultural land" as defined by Goal 3.³ Goal 3 became effective on January 25, 1975, and required that agricultural lands as defined by the Goal be zoned EFU pursuant to ORS 215.

Current land use regulations, particularly 215.284 and OAR 660, division 33, enacted or adopted pursuant to Goal 3, establish standards for the development of dwellings on existing or proposed parcels on EFU-zoned land.

¹ A partnership is a distinct legal entity from the individuals who own the partnership (ORS 67.050(1)). Under ORS 197.352(11)(A), legal entities can be "family members" of individuals who are owners of property under ORS 197.352(11)(C). Therefore, Rocky Top Ranch is a family member of the individual owners of the partnership.

² See Linn County Measure 37 staff report, M37-062-06, Section II(C).

³ The claimants' property is "agricultural land" because it contains National Resources Conservation Service Class I-IV soils.

OAR 660-033-0135 (applicable to farm dwellings) became effective on March 1, 1994, and interprets the statutory standard for a primary dwelling in an EFU zone under ORS 215.283(1)(f). OAR 660-033-0130(4) (applicable to non-farm dwellings) became effective on August 7, 1993, and was amended to comply with ORS 215.284(4) on March 1, 1994. The Commission subsequently adopted amendments to comply with House Bill 3326 (Chapter 704, Oregon Laws 2001, effective on January 1, 2002), which were effective on May 22, 2002. (See administrative rule history for OAR 660-033-0100, -0130 and -0135.)

The claimants' family member acquired the subject property in 1976, after the adoption of the statewide planning goals, but before the Commission acknowledged Linn County's land use regulations to be in compliance with the statewide planning goals pursuant to ORS 197.250 and 197.251.⁴ In 1976, the subject property was zoned by Linn County as ART-5, which permitted a 5-acre minimum lot size and permitted development of a dwelling outright. However, because the Commission had not acknowledged the county's plan and land use regulations when the claimants' family member acquired the subject property on December 28, 1976, the statewide planning goals, and Goal 3 in particular, applied directly to the property when the claimants' member family acquired it.⁵

Conclusions

The current zoning requirements and dwelling standards established by Goal 3, ORS 215 and OAR 660, division 33, do not allow Marlene Hirons' desired division or development of the subject property. However, the claim does not establish whether or the extent to which Marlene Hirons' desired use of the subject property complies with the standards for land divisions and development under the requirements of Goal 3 and ORS 215 in effect when her family member acquired the subject property on December 28, 1976.

Because N. Tom Hirons is no longer an owner of the subject property, laws enforced by the Commission or the department do not restrict his use of the subject property with the effect of reducing its fair market value.

3. Effect of Regulations on Fair Market Value

In order to establish a valid claim, ORS 197.352(1) requires that the land use regulation(s) (described in Section V.(2) of this report) must have "the effect of reducing the fair market value of the property, or any interest therein."

⁴ Linn County's comprehensive plan and land use regulations were acknowledged by the Commission for compliance with Goal 3 on July 18, 1985.

⁵ The statewide planning goals became effective on January 25, 1975, and were applicable to legislative land use decisions and some quasi-judicial land use decisions prior to the Commission's acknowledgment of each county's comprehensive plan and implementing regulations. *Perkins v. City of Rajneeshpuram*, 300 Or 1 (1985); *Alexanderson v. Polk County*, 289 Or 427, rev. den 290 Or 137 (1980); *Sunnyside Neighborhood Assn. v. Clackamas County*, 280 Or 3 (1977); *Jurgenson v. Union County*, 42 Or App 505 (1979); and *1000 Friends of Oregon v. Benton County*, 32 Or App 413 (1978). After the county's plan and land use regulations were acknowledged by the Commission, the statewide planning goals and implementing rules no longer applied directly to such local land use decisions. *Byrd v. Stringer*, 295 Or 311 (1983). However, statutory requirements continue to apply, and insofar as the state and local provisions are materially the same, the local provisions must be interpreted consistent with the substance of the goals and implementing rules. *Forster v. Polk County*, 115 Or App 475 (1992) and *Kenagy v. Benton County*, 115 Or App 131 (1992).

Findings of Fact

The claim includes an estimate of \$600,000 as the reduction in the subject property's fair market value due to the regulations that restrict Marlene Hirons' desired use of the property. This amount is based on the claimants' assessment of the property's value.

Conclusions

As explained in Section V.(1) of this report, the claimants are Marlene Hirons, whose family member acquired the subject property in 1976, and her late husband, N. Tom Hirons. Because he is no longer an owner of the subject property, no laws enforced by the Commission or the department restrict N. Tom Hirons' use of the subject property with the effect of reducing its fair market value. Therefore, he is not entitled to compensation under ORS 917.352. Under ORS 197.352, Marlene Hirons is due compensation for land use regulations that restrict the use of the property and have the effect of reducing its fair market value. Based on the findings and conclusions in Section V.(2) of this report, laws enacted or adopted since the claimants' family member family acquired the subject property restrict Marlene Hirons' desired use of the property. The claimants estimate that the effect of the regulations on the fair market value of the subject property is a reduction of \$600,000.

Without an appraisal or other documentation, it is not possible to substantiate the specific dollar amount by which the land use regulations have reduced the fair market value of the subject property. Nevertheless, based on the evidence in the record for this claim, the department determines that the fair market value of the subject property has been reduced to some extent as a result of land use regulations enforced by the Commission or the department since the claimants' family member acquired the property.

4. Exemptions Under ORS 197.352(3)

ORS 197.352 does not apply to certain land use regulations. In addition, under ORS 197.352(3), certain types of laws are exempt from ORS 197.352.

Findings of Fact

The claim is based on state land use regulations that restrict the use of the subject property, including applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, which Linn County has implemented through its current EFU zone. With the exception of Goal 3 and provisions of ORS 215 in effect on December 28, 1976, all of these land use regulations were enacted or adopted after the claimants' family member acquired the subject property.

Conclusions

It appears that the general statutory, goal and rule restrictions on residential development of the subject property are not exempt under ORS 197.352(3)(E) to the extent they were enacted or adopted after the claimants' family member acquired the property on December 28, 1976. Goal 3 and provisions of ORS 215 in effect when the claimants' family member acquired the subject property are exempt under ORS 197.352(3)(E) and do not provide a basis for

compensation. In addition, other land use laws enacted or adopted for a purpose set forth in ORS 197.352(3)(A) to (D) are also exempt and would not provide a basis for compensation.

VI. FORM OF RELIEF

ORS 197.352(1) provides for payment of compensation to an owner of private real property if the Commission or the department has enforced one or more laws that restrict the use of the property in a manner that reduces its fair market value. In lieu of compensation, the department may choose to not apply the law in order to allow the present owner to carry out a use of the property permitted at the time the present owner acquired the property. The Commission, by rule, has directed that if the department determines a claim is valid, the Director of the department must provide only non-monetary relief unless and until funds are appropriated by the legislature to pay claims.

Findings of Fact

Based on the findings and conclusions set forth in this report, claimant N. Tom Hirons is not entitled to compensation under ORS 197.352 because he is no longer an owner of the subject property. Laws enforced by the Commission or the department restrict claimant Marlene Hirons' desired use of the subject property. The claim asserts that existing state land use regulations enforced by the Commission or the department have the effect of reducing the fair market value of the subject property by \$600,000. However, because the claim does not provide an appraisal or other relevant evidence demonstrating that the land use regulations described in Section V.(2) reduce the fair market value of the subject property, a specific amount of compensation cannot be determined. In order to determine a specific amount of compensation due for this claim, it would also be necessary to verify whether or the extent to which Marlene Hirons' desired use of the subject property was allowed under the standards in effect when the claimants' family member acquired the property. Nevertheless, based on the record for this claim, the department has determined that the laws on which the claim is based have reduced the fair market value of the subject property to some extent.

No funds have been appropriated at this time for the payment of claims. In lieu of payment of compensation, ORS 197.352 authorizes the department to modify, remove or not apply all or parts of certain land use regulations to allow Marlene Hirons to use the subject property for a use permitted at the time she acquired the property on April 17, 1995.

At the time Marlene Hirons acquired an interest in the subject property, it was subject to Linn County's acknowledged EFU zone and current development standards as discussed in Section V.(2) above. The department acknowledges that the laws in effect when Marlene Hirons acquired the subject property prohibit her desired use.

In addition to the applicable provisions of Goal 3, ORS 215, and OAR 660, division 33, in effect on April 17, 1995, and other laws in effect when claimant Marlene Hirons acquired the subject property, there may be other laws that apply to her use of the property that have not been identified in the claim. This report addresses only those state laws that are identified in the claim, or that the department is certain apply to the subject property based on the use that Marlene Hirons has identified. Similarly, this report only addresses the exemptions provided for under ORS 197.352(3) that are clearly applicable given the information provided to the

department in the claim. Marlene Hirons should be aware that the less information she has provided to the department in her claim, the greater the possibility that there may be additional laws that will later be determined to continue to apply to her use of the subject property.

Conclusions

Based on the record before the department, N. Tom Hirons is not entitled to relief under ORS 197.352(1) as a result of land use regulations enforced by the Commission or the department because he is no longer an owner of the subject property. Therefore, the department recommends that N. Tom Hirons' claim be denied. The department further recommends that Marlene Hirons' claim be approved, subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Marlene Hirons' development of a dwelling on the 27-acre subject property: applicable provisions of Goal 3, ORS 215 and OAR 660, division 33, enacted or adopted after April 17, 1995. These land use regulations will not apply to Marlene Hirons only to the extent necessary to allow her to use the subject property for the use described in this report, and only to the extent that use was permitted when she acquired the property on April 17, 1995. The department acknowledges that the relief to which Marlene Hirons is entitled under ORS 197.352 will not allow her to use the subject property in the manner set forth in the claim.

2. The action by the State of Oregon provides the state's authorization to Marlene Hirons to use the subject property for the use described in this report, subject to the standards in effect on April 17, 1995. At that time, the property was subject to applicable provisions of Linn County's EFU zoning and applicable provisions of Goal 3, ORS 215, and OAR 660, division 33, currently in effect.

3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the subject property may not be used without a permit, license or other form of authorization or consent, the order will not authorize the use of the property unless Marlene Hirons first obtains that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a "permit" as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies and restrictions on the use of the subject property imposed by private parties.

4. Any use of the subject property by Marlene Hirons under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

5. Without limiting the generality of the foregoing terms and conditions, in order for Marlene Hirons to use the subject property, it may be necessary for her to obtain a decision under ORS 197.352 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves Marlene Hirons from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to a use of the subject property by her.

VII. COMMENTS ON THE DRAFT STAFF REPORT

The department issued its draft staff report on this claim on March 26, 2007. OAR 125-145 0100(3), provided an opportunity for the claimants or the claimants' authorized agent and any third parties who submitted comments under OAR 125-145-0080 to submit written comments, evidence and information in response to the draft staff report and recommendation.

The claimant, Marlene Hirons, submitted additional comments on the draft staff report regarding her date of acquisition. The comments were reviewed and taken into account in the preparation of the final report.